

ASSEMBLY BILL

No. 1765

Introduced by Assembly Member Jones-Sawyer

February 14, 2014

An act to add and repeal Article 22 (commencing with Section 18900.20) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1765, as introduced, Jones-Sawyer. Personal income taxes: voluntary contributions: Habitat for Humanity Fund.

The Personal Income Tax Law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified funds.

This bill would additionally allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Habitat for Humanity Fund, which would be created by this bill. The bill would require the Franchise Tax Board, when another voluntary contribution designation is removed, to revise the tax return forms to provide for the designation created by this bill.

The bill would require moneys in the Habitat for Humanity Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and the balance to the Department of Housing and Community Development to distribute grants to Habitat for Humanity affiliates in California that meet certain requirements, including a specified tax-exempt status. The bill would require these grants to be used for the sole purpose of building affordable housing in California.

The bill would provide that these provisions would remain in effect only until January 1 of the 5th taxable year following the first appearance of the Habitat for Humanity Fund on the tax return, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not equal or exceed the minimum contribution amount, as defined, for that calendar year, in which case these provisions would be repealed on December 1 of that year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 22 (commencing with Section 18900.20) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 22. Habitat for Humanity Fund

18900.20. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Habitat for Humanity Fund established by Section 18900.22.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for a taxable year on the original return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the individual's account, do not exceed the individual's tax liability, the return shall be treated as though no designation has been made.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled "Habitat for Humanity Fund" to allow for the designation permitted under subdivision (a). The form shall also include in the instructions information that the contribution

1 may be in the amount of one dollar (\$1) or more and that the
2 contribution shall be used to build affordable housing in California.

3 (f) Notwithstanding any other law, a voluntary contribution
4 designation for the Habitat for Humanity Fund shall not be added
5 on the tax return until another voluntary contribution designation
6 is removed.

7 (g) A deduction shall be allowed under Article 6 (commencing
8 with Section 17201) of Chapter 3 of Part 10 for a contribution
9 made pursuant to subdivision (a).

10 18900.22. There is hereby established in the State Treasury
11 the Habitat for Humanity Fund to receive contributions made
12 pursuant to Section 18900.20. The Franchise Tax Board shall notify
13 the Controller of both the amount of money paid by taxpayers in
14 excess of their tax liability and the amount of refund money that
15 taxpayers have designated pursuant to Section 18900.20 to be
16 transferred to the Habitat for Humanity Fund. The Controller shall
17 transfer from the Personal Income Tax Fund to the Habitat for
18 Humanity Fund an amount not in excess of the sum of the amounts
19 designated by individuals pursuant to Section 18900.20 for
20 payment into that fund.

21 18900.24. All money transferred to the Habitat for Humanity
22 Fund, upon appropriation by the Legislature, shall be allocated as
23 follows:

24 (a) To the Franchise Tax Board and the Controller for
25 reimbursement of all costs incurred by the Franchise Tax Board
26 and the Controller in connection with their duties under this article.

27 (b) The Department of Housing and Community Development
28 for distribution of grants to Habitat for Humanity affiliates in
29 California that are in active status, as described on the Business
30 search page of the Secretary of State's Internet Web site, and that
31 are exempt from federal income taxation as an organization
32 described in Section 501(c)(3) of the Internal Revenue Code. These
33 grants shall be used for the sole purpose of building affordable
34 housing in California.

35 18900.26. (a) Except as otherwise provided in subdivision (b),
36 this article shall remain in effect only until January 1 of the fifth
37 taxable year following the first appearance of the Habitat for
38 Humanity Fund on the personal income tax return, and is repealed
39 as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and each subsequent calendar year that the Habitat for Humanity Fund appears on the tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Controller and the Department of Housing and Community Development of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article shall be inoperative with respect to taxable years beginning on or after January 1 of that calendar year and shall be repealed on December 1 of that year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the Habitat for Humanity Fund on the personal income tax return or the minimum contribution amount as adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Habitat for Humanity Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the

1 inflation factor adjustment as specified in subparagraph (A) of
2 paragraph (2) of subdivision (h) of Section 17041, rounded off to
3 the nearest dollar.

4 (2) The inflation factor adjustment used for the calendar year
5 shall be based on the figures for the percentage change in the
6 California Consumer Price Index for all items received on or before
7 August 1 of the calendar year pursuant to paragraph (1) of
8 subdivision (h) of Section 17041.

9 (d) Notwithstanding the repeal of this article, any contribution
10 amounts designated pursuant to this article prior to its repeal shall
11 continue to be transferred and disbursed in accordance with this
12 article as in effect immediately prior to that repeal.